

REMARKS

Amendments

Claim 1 is amended to recite that component (B) is either (a) a polyethylene grafted with polyamide grafts resulting from the reaction of a copolymer of ethylene and an unsaturated monomer, which copolymer with a polyamide, or (b) a polypropylene grafted with polyamide grafts resulting from the reaction of a copolymer of propylene and an unsaturated monomer, which copolymer is grafted with a polyamide. See, e.g., claims 6 and 8. Claims 6 and 8 are amended to be consistent with the language of amended claim 1. Other amendments to the claims are discussed below.

Entry of the amendments is respectfully requested. These amendments clearly place the application in condition for allowance, or at the very least reduce the number of issues for appeal.

Claim Objections

Claim 6 is amended to delete term "instrumental," which resulted from a typographical error. Also, claim 40 is amended to insert "polypropylene is" as suggested by the Examiner. Withdrawal of the objection is respectfully requested.

Rejection Under 35 USC §112, second paragraph

In the rejection, it is argued that claims 4, 20, and 21 are dependent on cancelled claim 3. Claims 4 and 20 are now amended to depend from claims 1 and 2, respectively. Claim 21 remains dependent on claim 4.

Claim 7 is amended above to use a phrase like "'R is A, B, C, or D.'" However, it is respectfully submitted that the prior language is acceptable Markush language. MPEP 2173.05(h) lists the phrases "R selected from the group consisting of A, B, C, and D" and "R is A, B, C, or D," as acceptable Markush language, but it does not state that a phrase like "R is selected from A, B, C, and D" is unacceptable. Nor does the rejection cite any case holding such language to be unacceptable. Using a phrase like "R is selected from A, B, C, and D" clearly conveys the concept of a Markush grouping to one of ordinary skill in the art.

Claim 8 is amended to recite that the copolymer is obtained from propylene and an unsaturated monomer X. A similar amendment is made to claim 6. However, it is respectfully submitted that the prior language was not indefinite. One of ordinary skill in the art is well aware that it is conventional to describe a copolymer by references to its monomer. Nothing in the rejection supports the assertion that language such as a copolymer of monomers A and B would be interpreted in by one of ordinary skill in the art in the manner suggested in the rejection.

Claim 10 is amended to eliminate obvious typographical errors. Furthermore, the term "polyamide" is a generic term in that it encompasses both homo-polyamides and copolyamides. In other words, a copolyamide is a class of polyamides and thus claim 10 is properly dependent on claims 1 and 6.

The range between 1 and 5 clearly encompasses, for example, 2, whereas the range 3-5 does not. Thus, claim 42 properly dependent on claim 1.

Withdrawal of the rejection is respectfully requested.

Rejection Under 35 USC §112, first paragraph

As mentioned previously, claim 6 is amended to delete term "instrumental," which resulted from a typographical error. The description of dicarboxylic acid as a possible functional group is clearly supported by the disclosure at, for example, page 9, lines 16-18. Finally, claim 34 is amended to recite the range using the specific language at page 8, line 17 (this amendment should not impact the scope of equivalents under the doctrine of equivalents).

In view of the above remarks, withdrawal of the rejection is respectfully requested.

Rejection Under 35 USC §102 or §103(a)

All of the claims are rejected as allegedly being anticipated or render obvious by the disclosure of Moriyama et al. (EP 0 440 557). This rejection is respectfully traversed.

EP '557 discloses a resin composition comprising (A) a saponified ethylene-vinyl acetate copolymer, (B) a polyolefin resin, (C) a graft polymer obtained by grafting an ethylenically unsaturated carboxylic acid or a derivative thereof to a polyolefin resin and

reacting the adduct with a polyamide oligomer or polyamide, and (D) a hydrotalcite compound.

The graft polymer (C), which is said to be used for improving compatibility among the components of the resin composition, is obtainable by grafting an ethylenically unsaturated carboxylic acid or a derivative thereof to a polyolefin resin and which is then reacted with a polyamide oligomer or polyamide. EP '557 do not disclose or suggest a graft polymer which is either (a) a polyethylene grafted with polyamide grafts resulting from the reaction of a copolymer of ethylene and an unsaturated monomer, which copolymer is grafted with a polyamide, or (b) a polypropylene grafted with polyamide grafts resulting from the reaction of a copolymer of propylene and an unsaturated monomer, which copolymer is grafted with a polyamide. Nor does EP '557 suggests modifying its resin composition comprising its components (A), (B), (C), and (D) so as to contain such a graft copolymer, either in place of in addition to component (C).

In view of the above remarks, it is respectfully submitted that EP '557 fails to disclose inherently or expressly, each element of Applicants' claimed invention. Further, EP '557 fails to provide sufficient motivation which would lead one of ordinary skill in the art to modify the compositions described therein in such a manner as to arrive at an embodiment in accordance with Applicants' claimed invention.

Thus, it is respectfully submitted that EP '557 fails to anticipate or render obvious Applicants' claimed invention. Withdrawal of the rejection under 35 U.S.C. § 102 and/or § 103 is respectfully requested.

As a final note, with respect to the previously submitted arguments concerning "compatibilizer (B)," applicants pointed out that the specification defined this term as being any polymer that allows the polypropylene to be dispersed in the EVOH. Claim 1 was simultaneously amended to recite that the compatibilizer (b) was to be selected from a specified group of polymers.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



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